

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X  
**JANYVES DESHAZIER,**

**Plaintiff,**

**-against-**

**THE CITY OF NEW YORK, POLICE OFFICER  
JASON WITTHOHN SHIELD NO. 23887,**

**Defendants.**  
-----X

**STIPULATION AND  
ORDER OF  
SETTLEMENT AND  
DISMISSAL**

09-CV-1609 (ENV)(CLP)

**WHEREAS,** plaintiff commenced this action by filing a complaint on or about April 17, 2009 alleging that defendants violated plaintiff's federal civil rights; and

**WHEREAS,** defendants have denied any and all liability arising out of plaintiff's allegations; and

**WHEREAS,** the plaintiff and the defendants now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

**WHEREAS,** plaintiff has authorized his counsel to settle this matter on the terms set forth below:

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED,** by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.
2. The City of New York hereby agrees to pay plaintiff the sum of Seventeen Thousand Five Hundred (\$17,500.00) Dollars in full satisfaction of all claims, inclusive of claims for costs, expenses and attorneys' fees as against defendants. In consideration for the

payment of this sum, plaintiff agrees to the dismissal of all claims against all defendants, and to release the defendants and any present or former officials, employees, representatives and agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action that were or could have been alleged in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph "2" above and an Affidavit of Status of Liens.

4. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York, or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.


5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.


6. This Stipulation and Order contains all the terms and conditions agreed upon by the plaintiff and defendants, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the plaintiff and the defendants hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
\_\_\_\_\_, 2009

ROBERT MARINELLI, ESQ.  
*Attorney for Plaintiff*  
26 Court Street  
Suite 1815  
Brooklyn, New York 11242

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
*Attorney for Defendants*  
100 Church Street  
New York, NY 10007  
(212) 788-1298

By:   
Robert Marinelli (RM 4242)

By:   
Douglas W. Heim (DH5238)  
Assistant Corporation Counsel

SO ORDERED:

\_\_\_\_\_  
U.S.D.J.